

CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Eric Rigie	Team: Squad #3	CCRB Case #: 201701664	<input checked="" type="checkbox"/> Force	<input checked="" type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input checked="" type="checkbox"/> Abuse	<input type="checkbox"/> O.L.	<input type="checkbox"/> Injury
Incident Date(s) Tuesday, 02/28/2017 1:55 PM	Location of Incident: [REDACTED]	Precinct: 79	18 Mo. SOL 8/28/2018	EO SOL 8/28/2018	
Date/Time CV Reported Fri, 03/03/2017 11:13 AM	CV Reported At: CCRB	How CV Reported: Phone	Date/Time Received at CCRB Fri, 03/03/2017 11:13 AM		

Complainant/Victim	Type	Home Address
[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED]

Subject Officer(s)	Shield	TaxID	Command
1. CPT Alison Esposito	00000	920258	077 PCT
2. POM Willmer Hernandez	05901	944650	079 PCT
3. POM Bercides Medina	14320	955176	077 PCT
4. POM Steven Tesoriero	19818	960020	077 PCT
5. Officers			
6. An officer			

Witness Officer(s)	Shield No	Tax No	Cmd Name
1. POM Thomas Bay	13631	960217	079 PCT
2. POM Nicholas Sierra	13817	956260	079 PCT
3. POM John Buchanan	15184	955801	079 PCT
4. POM Robert Bramble	12995	955767	079 PCT
5. SSA Okera Morrison	04131	928816	079 PCT
6. SGT Scott Nieri	01893	947292	079 PCT
7. SGT Alex Morocho	5420	939794	079 PCT
8. POF Charlene Vazquez	20504	945335	079 PCT
9. POF Marie Pilieci	14566	956170	079 PCT
10. DT3 Christian Hoell	6719	932796	079 DET
11. SGT Emile Pratt	04876	935535	079 PCT

Officer(s)	Allegation	Investigator Recommendation
A.CPT Alison Esposito	Abuse: Captain Alison Esposito entered and searched § 87(2)(b) in Brooklyn.	[REDACTED]
B.CPT Alison Esposito	Force: At § 87(2)(b) in Brooklyn, Captain Alison Esposito pointed her gun at § 87(2)(b) and § 87(2)(b).	[REDACTED]
C.POM Willmer Hernandez	Force: At § 87(2)(b) in Brooklyn, Police Officer Willmer Hernandez pointed his gun at § 87(2)(b) and § 87(2)(b).	[REDACTED]
D.POM Bercides Medina	Force: At § 87(2)(b) in Brooklyn, Police Officer Bercides Medina pointed his gun at § 87(2)(b) and § 87(2)(b).	[REDACTED]

Officer(s)	Allegation	Investigator Recommendation
E.POM Steven Tesoriero	Force: At § 87(2)(b) in Brooklyn, Police Officer Steven Tesoriero pointed his gun at § 87(2)(b) and § 87(2)(b)	
F.CPT Alison Esposito	Discourtesy: At § 87(2)(b) in Brooklyn, Captain Alison Esposito spoke discourteously to § 87(2)(b) and § 87(2)(b)	
G. Officers	Discourtesy: At § 87(2)(b) in Brooklyn, officers spoke discourteously to § 87(2)(b) and § 87(2)(b)	
H.CPT Alison Esposito	Abuse: At § 87(2)(b) in Brooklyn, Captain Alison Esposito stopped § 87(2)(b) and § 87(2)(b)	
I.CPT Alison Esposito	Force: At § 87(2)(b) in Brooklyn, Captain Alison Esposito pointed her gun at § 87(2)(b)	
J. An officer	Discourtesy: At § 87(2)(b) in Brooklyn, an officer acted discourteously toward § 87(2)(b)	
K. An officer	Abuse: At § 87(2)(b) in Brooklyn, an officer damaged § 87(2)(b)'s property.	
L. An officer	Abuse: At § 87(2)(b) in Brooklyn, an officer frisked § 87(2)(b)	
M. An officer	Abuse: At § 87(2)(b) in Brooklyn, an officer frisked § 87(2)(b)	
N. An officer	Abuse: At § 87(2)(b) in Brooklyn, an officer searched § 87(2)(b)	
O.CPT Alison Esposito	Abuse: At the 79th Precinct stationhouse, Captain Allison Esposito detained § 87(2)(b)	
P.CPT Alison Esposito	Abuse: At the 79th Precinct stationhouse, Captain Alison Esposito detained § 87(2)(b)	

Case Summary

On March 3, 2017, § 87(2)(b) filed this case with the CCRB via phone.

On February 28, 2017, at approximately 1:55 p.m., § 87(2)(b) and his girlfriend, § 87(2)(b) were on the roof of § 87(2)(b) in Brooklyn feeding pigeons and cleaning a pigeon coop. This property, which functions as an auto body shop, was owned by a male known to the investigation only as § 87(2)(b). PO Robert Bramble and PO John Buchanan, of the 79th Precinct, observed § 87(2)(b) and § 87(2)(b) on the roof and believed § 87(2)(b) to be wanted fugitive § 87(2)(b). PO Bramble put his observation over the radio and anti-crime Sgt. Okera Morrison, also of the 79th Precinct, put over a request for additional units to respond to the location. Captain Alison Esposito, of the 77th Precinct, heard these transmissions, and directed officers to take no action at the scene until she arrived. Throughout this incident, elements of the 79th Precinct, 77th Precinct, ESU, and Aviation arrived on the scene. Included among these officers were PO Willmer Hernandez, Sgt. Alex Morocho, PO Charlene Vazquez, and PO Marie Pileci of the 79th Precinct and PO Bercides Medina and PO Steven Tesoriero of the 77th Precinct. Sgt. Morrison did not arrive on scene until the incident was over.

Upon arrival at the scene, Captain Esposito joined with PO Medina, PO Tesoriero, and PO Hernandez. Under Captain Esposito's direction, these officers then entered the location and accessed the roof via an internal ladder (**Allegation A**). Once on the roof, Captain Esposito, PO Hernandez, PO Medina, and PO Tesoriero pointed their guns at § 87(2)(b) and § 87(2)(b) (**Allegations B, C, D, and E**). Some of these officers, including Captain Esposito, then allegedly yelled commands to § 87(2)(b) and § 87(2)(b) including, "Put your fucking hands up! Shut the fuck up! Turn the fuck around! Get the fuck on the ground!" (**Allegations F, G, and H**). Then, while questioning § 87(2)(b) as to the whereabouts of § 87(2)(b), Captain Esposito allegedly held her gun against § 87(2)(b)'s head and asked, "Where the fuck is he?" (also **Allegation F** and **Allegation I**). One officer allegedly swatted § 87(2)(b)'s hand, knocking his cell phone to the ground and causing the screen to crack (**Allegations J and K**). Two officers then frisked § 87(2)(b) and § 87(2)(b) (**Allegations L and M**). One of the two officers then allegedly searched inside § 87(2)(b)'s pockets (**Allegation N**). § 87(2)(b) and § 87(2)(b) were both handcuffed. After questioning them, Captain Esposito allegedly instructed an officer to search § 87(2)(b) again (also **Allegation N**). Captain Esposito then instructed PO Medina and PO Tesoriero to transport § 87(2)(b) and § 87(2)(b) to the 79th Precinct Detective Squad for debriefing (**Allegations O and P**).

On arriving at the 79th Precinct stationhouse at 2:50 p.m., PO Medina and PO Tesoriero checked § 87(2)(b) and § 87(2)(b) in at the front desk with Sgt. Scott Nieri of the 79th Precinct before lodging them in the holding cells and resuming patrol. At 3:56 p.m. cell attendant PO Thomas Bay ran § 87(2)(b)'s name and confirmed he had an active warrant. At approximately 5:03 p.m., PO Bramble and PO Buchanan returned to the stationhouse and were instructed by Sgt. Emile Pratt to determine the status of § 87(2)(b) and § 87(2)(b)'s confinement. At approximately 5:50 p.m., PO Bramble and PO Buchanan returned to § 87(2)(b) and confirmed that § 87(2)(b) did not wish to press trespassing charges. At 6:56 p.m., PO Bramble ran § 87(2)(b)'s name for warrants while PO Buchanan ran § 87(2)(b)'s name for warrants. After returning to the 79th Precinct stationhouse, at 7:49 p.m. PO Buchanan had § 87(2)(b) debriefed by Det. Christian Hoell, of the 79th Precinct Detective Squad. At 7:52 p.m., PO Bramble had § 87(2)(b) debriefed by Det. Hoell. PO Buchanan then prepared § 87(2)(b)'s arrest report for the active warrant and PO Bramble prepared a voided

arrest for § 87(2)(b) for trespassing. § 87(2)(b) was then released after over five hours of detainment.

There was no video footage of this incident. This case was closed past 90 days due to the need to obtain documents from three different commands and the need to identify and interview the detective who debriefed § 87(2)(b) and § 87(2)(b) § 87(2)(g)

Mediation, Civil and Criminal Histories

- This case was not suitable for mediation due to § 87(2)(b) actively pursuing a lawsuit.
- On August 10, 2017, a FOIL request sent to the Office of the Comptroller confirmed that no Notices of claim were filed by § 87(2)(b) or § 87(2)(b) for this incident (01 Board Review).
- § 87(2)(b)
- § 87(2)(b) has no conviction history (03 Board Review).

Civilian and Officer CCRB Histories

- This is § 87(2)(b) and § 87(2)(b)'s first CCRB complaint (04 Board Review).
- Captain Esposito has been a member of the NYPD for 19 years and has four previous CCRB cases involving nine allegations and no substantiated allegations. § 87(2)(g)
- PO Hernandez has been a member of the NYPD for 10 years and has two previous CCRB complaints involving two allegations with no substantiated allegations. § 87(2)(g)
- PO Medina has been a member of the NYPD for four years and was involved with one other CCRB case involving two allegations that is under active investigation. § 87(2)(g)
- PO Tesoriero has been a member of the NYPD for one year and is involved with one other CCRB case involving two allegations that is under active investigation. § 87(2)(g)

Potential Issues

- This incident involved officers from at least four different commands.
 - § 87(2)(b) said that he and his employees did not want to get involved in the investigation.

Findings and Recommendations

Explanation of Subject Officer Identification

- With regard to **Allegation G**, § 87(2)(b) said that at least two or three of the officers on the roof yelled discourtesies, but he was not able to say which specific officers did so aside from Captain Esposito. § 87(2)(b) said that all the officers yelled commands, but that only Captain Esposito used discourtesies. Because none of the officers on the roof acknowledged using discourtesies, the investigation was unable to determine the subjects of **Allegation G** by a preponderance of the evidence (05 and 06 Board Review).
- With regard to **Allegations J and K**, § 87(2)(b) was unable to describe the officer who allegedly knocked his phone out of his hand beyond saying that it was a male in uniform. § 87(2)(b) thought that the officer who allegedly knocked § 87(2)(b)'s phone onto the ground was a black male, 5'11" tall, with a medium build, short cut hair, no facial hair, and in blue uniform. However, § 87(2)(b) later clarified that this officer was nearby when this happened, but she did not actually see him touch § 87(2)(b)'s phone. Furthermore, § 87(2)(b)'s description does not fit any of the officers identified as having been on the roof. Additionally, none of the officers on the roof acknowledged causing § 87(2)(b)'s phone to fall to the ground or handcuffing § 87(2)(b). Therefore, the investigation was unable to determine the subject of **Allegations J and K** by a preponderance of the evidence (05 and 06 Board Review).
- With regard to **Allegations L, M, N**, § 87(2)(b) could only describe the officer who searched him as a male and "the biggest officer on the scene." § 87(2)(b) described the officer who patted down § 87(2)(b) as a black, male, 5'11" tall, with a medium build, short cut hair, no facial hair, and in blue uniform, but said that this officer did not go into his pockets. Furthermore, § 87(2)(b)'s description does not fit any of the officers identified as having been on the roof during this incident. Although, § 87(2)(b) described the officer who patted her down as a Puerto Rican male, 5'10" tall, 160 pounds, and in blue uniform, this general description fits more than one officer. Based on these facts and because none of the officers on the roof acknowledged taking these actions, the investigation was unable to determine the subjects of **Allegations L, M, and N** by a preponderance of the evidence (05 and 06 Board Review).

Allegations Not Pleaded

- § 87(2)(b) said that while in the cells he told officers that he needed medicine, did not feel well, and needed to go to the hospital, but officers did not take him for one to two hours. However, § 87(2)(b) said that his symptoms were limited to feeling dizzy and the short delay in officers obtaining § 87(2)(b) treatment did not appear intentional or negligent. Therefore, no delay in providing medical treatment allegation was pleaded (05 Board Review).
- Captain Esposito said during her interview that on February 25, 2017, three days prior to this incident, she went with officers to the incident location and entered the roof to look for § 87(2)(b) after securing permission from § 87(2)(b). However, § 87(2)(b) did not mention this prior incident or make any complaints against officers during his brief phone statement. Therefore, no allegation was pleaded (07-09 Board Review).

Allegation A –Abuse of Authority: Captain Alison Esposito entered and searched § 87(2)(b) in Brooklyn.

In a phone statement, § 87(2)(b) said that officers went onto his roof looking for § 87(2)(b) who he gave permission for several years to go onto his roof and feed pigeons. The officers later took § 87(2)(b) and § 87(2)(b) into custody. § 87(2)(b) never called officers to report § 87(2)(b) or § 87(2)(b) as they had permission to be on his roof to feed the pigeons. In a follow up phone call, § 87(2)(b) said that he gave officers permission to enter his shop to access his roof during this incident. § 87(2)(b) also mentioned he did not know § 87(2)(b) § 87(2)(b) was a wanted fugitive (07 and 08 Board Review).

§ 87(2)(b) said that she and § 87(2)(b) went on the roof to feed the pigeons in the pigeon coop after being asked by § 87(2)(b) § 87(2)(b) to do so. They fed the pigeons for approximately 20 minutes when she noticed multiple police vehicles on the street and a police helicopter flying low overhead. A few minutes later, § 87(2)(b) heard officers yell, “Turn around!” § 87(2)(b) then observed approximately six officers on the roof. § 87(2)(b) § 87(2)(b) s phone statement was generally consistent with her CCRB interview (06 and 10 Board Review).

§ 87(2)(b) s statements about the entry were generally consistent with that provided by § 87(2)(b) (05, 11, and 31 Board Review).

Captain Esposito said that on February 25, 2017, a few days prior to this incident, she went to the incident location and informed § 87(2)(b) that there was a male who was known to regularly maintain a pigeon coop on his roof § 87(2)(b) § 87(2)(b) who the officers needed to have a discussion with because he may be armed and dangerous. § 87(2)(b) consented to officers going onto his roof and brought them to a ladder that would let them access the roof. When Captain Esposito arrived on the scene during this incident, she and § 87(2)(b) made eye contact and she motioned to § 87(2)(b) using her hand. § 87(2)(b) responded by motioning back and pointing up toward the roof with his hand. Captain Esposito took this gesture to be § 87(2)(b) indicating that § 87(2)(b) § 87(2)(b) was on the roof and she had consent to access the roof again based on their previous conversation. Captain Esposito then gathered PO Hernandez, PO Medina, and PO Tesoriero, and accessed the roof via an internal ladder (09 Board Review).

PO Medina, PO Tesoriero, and PO Hernandez generally corroborated that Captain Esposito directed them onto the roof after receiving implied consent. PO Hernandez added that workers in the shop were helpful to the officers and showed them the best way to get onto the roof (12-14 Board Review).

Consent to search, a relinquishment of constitutional protection under both the Federal and State constitutions against unjustified official intrusion, must be a free and unconstrained choice. People v. Gonzalez, 39 N.Y. 2d 122 (1976). (15 Board Review).

§ 87(2)(b), § 87(2)(g)
§ 87(2)(b), § 87(2)(g)
§ 87(2)(b), § 87(2)(g)
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Allegation B –Force: At § 87(2)(b) in Brooklyn, Captain Alison Esposito pointed her gun at § 87(2)(b) and § 87(2)(b)

Allegation C –Force: At § 87(2)(b) in Brooklyn, Police Officer Willmer Hernandez pointed his gun at § 87(2)(b) and § 87(2)(b)

Allegation D –Force: At § 87(2)(b) in Brooklyn, Police Officer Bercides Medina pointed his gun at § 87(2)(b) and § 87(2)(b)

Allegation E –Force: At § 87(2)(b) in Brooklyn, Police Officer Steven Tesoriero pointed his gun at § 87(2)(b) and § 87(2)(b)

Allegation F –Discourtesy: At § 87(2)(b) in Brooklyn, Captain Alison Esposito spoke discourteously to § 87(2)(b) and § 87(2)(b)

Allegation G – Discourtesy: At § 87(2)(b) in Brooklyn, officers spoke discourteously to § 87(2)(b) and § 87(2)(b)

Allegation H –Abuse of Authority: At § 87(2)(b) in Brooklyn, Captain Alison Esposito stopped § 87(2)(b) and § 87(2)(b)

Allegation I –Force: At § 87(2)(b) in Brooklyn, Captain Alison Esposito pointed her gun at § 87(2)(b)

Allegation L –Abuse of Authority: At § 87(2)(b) in Brooklyn, an officer frisked § 87(2)(b)

Allegation M –Abuse of Authority: At § 87(2)(b) in Brooklyn, an officer frisked § 87(2)(b)

Allegation N –Abuse of Authority: At § 87(2)(b) in Brooklyn, an officer searched § 87(2)(b)

§ 87(2)(b) said that during the incident he was wearing blue jeans, a gray hooded sweatshirt, t-shirt, § 87(2)(b) boots, and a gray hat. § 87(2)(b) described himself as a § 87(2)(b) old black male, 5'9" tall, 150 pounds, with black hair, and § 87(2)(b) eyes. § 87(2)(b) had a couple of dollars, a screw, and his wallet in his pocket. § 87(2)(b) was holding his phone and there were several tools nearby on the roof. § 87(2)(b) was working on the coop approximately three to four feet away from the roof edge when he heard someone yell, "Turn around!" § 87(2)(b) turned and observed several officers led by Captain Esposito pointing guns at him and § 87(2)(b). The officers approached § 87(2)(b) with their guns pointed while yelling, "Put your fucking hands up!" "Get on the fucking ground!" "Shut the fuck up!" "Turn the fuck around!" "Put your fucking hands down! Put your fucking hands out!" At least two or three of the officers, including Captain Esposito, were yelling. § 87(2)(b) said that Captain Esposito yelled all of these statements, but he was not sure which other officers said them. After being handcuffed, a male officer patted § 87(2)(b)'s whole body down and then searched inside his pockets. Captain Esposito later told an officer to check § 87(2)(b) again and the officer searched § 87(2)(b) a second time. § 87(2)(b)'s prior phone statement and intake statement were generally consistent with his CCRB testimony, although he did not mention discourtesies in his phone statement and did not mention being patted down in his original complaint or phone statement (05, 11, and 31 Board Review).

§ 87(2)(b) generally corroborated § 87(2)(b)'s statement of seeing the officers on the roof with guns pointed, but added that they had a table saw, hammers, drills, tar paper, and plywood on the roof, which she and § 87(2)(b) were looking at when the officers arrived and pointed guns at them. No officers besides Captain Esposito ever cursed. Captain Esposito physically held a gun to § 87(2)(b)'s head prior to being handcuffed. Captain Esposito

said, “Where the fuck is he? Tell us where the fuck he is? How the fuck do you know him? How did you fucking reach him? Where the fuck is he? Tell us right fucking now!” After she was handcuffed, a male officer patted down § 87(2)(b)'s torso, pockets, and legs, but never went into her pockets. At the same time, a second male officer patted down § 87(2)(b) but did not go into his pockets. § 87(2)(b), § 87(2)(g)

§ 87(2)(b) (06 and 10 Board Review).

In a phone statement, § 87(2)(b) said he could not see or hear what happened on the roof (07 Board Review).

Captain Esposito said that three days before this incident, on February 25, 2017, a female came to the 77th Precinct stationhouse and told Captain Esposito that her husband, § 87(2)(b) was armed and going to kill her. This female also reported that § 87(2)(b) held her against her will for 24 hours while exposing her to physical and mental trauma. As proof that her husband was armed, the female showed Captain Esposito a loaded handgun magazine that she brought to the stationhouse and warned that § 87(2)(b) had more guns. During this incident, Captain Esposito was unable to see § 87(2)(b) or § 87(2)(b) prior to entering the roof. Multiple officers from the 79th and 77th Precincts along with ESU and Aviation responded to the scene due to the heightened level of danger. However, Captain Esposito did not wait for ESU, because she had not called them and did not know they were coming. Captain Esposito remembered an officer saying over the radio that § 87(2)(b) was holding a screw driver as she went up to the roof.

Captain Esposito said that she, PO Hernandez, PO Medina, and PO Tesoriero entered the roof via an internal access ladder and fanned out with their guns drawn and pointed. Captain Esposito was able to see § 87(2)(b) as soon as she got onto the roof, but § 87(2)(b) was obscured by the pigeon coop. Captain Esposito acknowledged that she and the officers pointed their guns at § 87(2)(b) and § 87(2)(b). Captain Esposito said the officers entered the roof tactically with guns drawn because she believed § 87(2)(b) to be § 87(2)(b) and because Captain Esposito was told that § 87(2)(b) was armed, dangerous, had said he would not go back to jail, and spent 23 years in jail for murder. Therefore, Captain Esposito believed that § 87(2)(b) or § 87(2)(b) could have been armed. Captain Esposito added that there were tools and boards with nails all over the roof and that these items could have been used as weapons. § 87(2)(b) and § 87(2)(b) were startled by the officers, who had to instruct them to show their hands multiple times before they complied. Captain Esposito was not sure exactly how many times these instructions were repeated and did not recall adding the word “fuck” to any of her commands or hearing any other officers do so. However, Captain Esposito added that she could not hear clearly because of the NYPD helicopter hovering low over the roof. Captain Esposito approached § 87(2)(b) and § 87(2)(b) to within approximately four feet while her gun was pointed, but she never physically held her gun to § 87(2)(b)'s head. Captain Esposito said she asked § 87(2)(b) where § 87(2)(b) was and did not believe she inserted “fuck” into those questions. Captain Esposito holstered her gun as soon as § 87(2)(b) and § 87(2)(b) were handcuffed. Other officers may have kept their guns out while searching the roof and pigeon coop, but they were not pointed at § 87(2)(b) or § 87(2)(b). Captain Esposito said that § 87(2)(b) and § 87(2)(b) definitely would have been frisked on the roof and anything in their pockets that were believed to be a danger would have been removed. Captain Esposito did not remember if either § 87(2)(b) or § 87(2)(b) had any bulges on their person (09 Board Review).

PO Medina generally corroborated Captain Esposito's statement, acknowledged drawing and pointing his weapon, and specified that officers needed to instruct § 87(2)(b) and § 87(2)(b).

§ 87(2)(b) three or four times to put their hands up before they complied. PO Medina denied that he or any officers used any profanity. PO Medina never observed Captain Esposito hold her gun to § 87(2)(b)'s head. PO Medina did not remember whether he frisked § 87(2)(b) or § 87(2)(b) and did not remember whether either individual had any visible bulges on their person (12 Board Review).

PO Hernandez said that when he first arrived on scene, Captain Esposito told him to get against the wall of the shop so the person on the roof could not see or shoot at him. PO Hernandez generally corroborated Captain Esposito's statement of events on the roof and acknowledged drawing and pointing his gun at § 87(2)(b) and § 87(2)(b). PO Hernandez added that § 87(2)(b) or § 87(2)(b) may have held a tool that resembled a stick, but he was not sure. PO Hernandez denied that Captain Esposito ever held her gun to § 87(2)(b)'s head or that he or any officer ever used any profanity. PO Hernandez did not remember observing any bulges on § 87(2)(b) or § 87(2)(b)'s person. PO Hernandez acknowledged that § 87(2)(b) and § 87(2)(b) were frisked on the roof immediately after being handcuffed. PO Hernandez did not frisk § 87(2)(b) but could not remember whether he frisked § 87(2)(b). PO Hernandez said that no officers searched § 87(2)(b) or § 87(2)(b) (13 Board Review).

PO Tesoriero said that prior to entering the roof, an officer radioed that he observed § 87(2)(b) or § 87(2)(b) holding an object that might have been a cell phone. PO Tesoriero said that by the time he got onto the roof, § 87(2)(b) and § 87(2)(b) were already in handcuffs. PO Tesoriero denied ever drawing his gun and did not observe any other officers do so. PO Tesoriero denied using any profanity on the roof and was unable to hear any statements made by the other officers due to the noise of the NYPD helicopter. PO Tesoriero said that neither he nor any officer frisked or searched § 87(2)(b) or § 87(2)(b) and did not observe any visible bulges or other indication that either had a weapon (14 Board Review).

Sgt. Morocho did not recall observing any officers with their guns drawn or any specific interaction between the officers and civilians on the roof. Sgt. Morocho was unable to hear any statements made by the officers due to the noise of the helicopter (16 Board Review).

PO Bramble said that while on patrol he observed § 87(2)(b) on the roof and believed him to be § 87(2)(b) due to the prior reports he received of § 87(2)(b) being on the roof of the location. During the incident, PO Bramble reviewed a wanted flyer sent to him via department email and confirmed that he was at the correct location. PO Bramble also observed a BMW, parked on the street next to the incident location that matched the description and license plate number of § 87(2)(b) BMW that was also provided in the flyer. PO Bramble therefore put out a radio call reporting that he observed the suspect on the roof (17 Board Review).

Complaint Report# § 87(2)(b) lists § 87(2)(b) as the alleged perpetrator and describes him as a § 87(2)(b), and as the husband of the alleged victim. § 87(2)(b) wife alleged that he threatened her with a hammer and said that he was going to crack her head open and kill her. § 87(2)(b) also allegedly pushed his wife in her face, causing it to bleed § 87(2)(b).

§ 87(2)(b) The report notes that § 87(2)(b) hung out on the roof of the mechanic shop at § 87(2)(b) in Brooklyn and drove a 2002 Green BMW with license plate# § 87(2)(b) (18 Board Review).

Upon reviewing detailed EVENT# § 87(2)(b) it was noted at 2:00 p.m. that a wanted perpetrator was on the rooftop of a building. The perpetrator was described as a male

Hispanic wearing a green hoodie and a baseball cap. At 2:03 p.m. an EMS unit was dispatched and an aviation unit said they were responding. At 2:05 p.m. a sergeant from the 79th Precinct directed all units to shut off their emergency lights. At 2:06 p.m. it is noted that the perpetrator is on the roof with a female. At 2:12 p.m. it is noted that the perpetrator was wearing a gray hoodie. At 2:14 p.m. it is noted that there is a pigeon coop at the location. At 2:16 p.m. aviation radioed that there were multiple officers with a female Hispanic and that they are still canvassing. At 2:17 p.m. it is noted that the perpetrator was in custody. At 2:20 p.m., ESU radioed that there was one outstanding perpetrator. At 2:21 p.m., it was noted that the officers' canvass produced negative results (19 Board Review).

The decision to draw or display a firearm should be based on an articulable belief that the potential for serious physical injury is present. When an officer determines that the potential for serious physical injury is no longer present, the officer will holster the firearm as soon as practicable (P.G. 221-01) (21 Board Review).

An officer may stop an individual if he has reasonable suspicion that the individual committed a crime and may frisk a suspect if he reasonably suspects he is in danger of physical injury by virtue of the detainee being armed. People v. DeBour, 40 N.Y. 2d 210 (1976).

§ 87(2)(b), § 87(2)(g)

§ 87(2)(b), § 87(2)(g)

Allegation J –Discourtesy: An officer acted discourteously toward § 87(2)(b)
Allegation K –Abuse of Authority: At § 87(2)(b) in Brooklyn, an officer
damaged § 87(2)(b) s property.

§ 87(2)(b) alleged that prior to being handcuffed, an officer swatted his phone out of his hand so that it fell to the ground and the screen cracked.

§ 87(2)(g)

Allegation O –Abuse of Authority: At the 79th Precinct stationhouse, Captain Allison
Esposito detained § 87(2)(b)
Allegation P –Abuse of Authority: At the 79th Precinct stationhouse, Captain Alison
Esposito detained § 87(2)(b)

§ 87(2)(b) said that no officer took her or § 87(2)(b) s ID on the roof, but only asked them their names, which they provided. § 87(2)(b) and § 87(2)(b) were escorted to the ground and § 87(2)(b) saw § 87(2)(b) and § 87(2)(b) in handcuffs and told the officers that § 87(2)(b) was not who they were looking for. At no point did Captain Esposito explain what the officers were doing to § 87(2)(b) or § 87(2)(b). Captain Esposito told PO Medina and PO Tesoriero to take § 87(2)(b) and § 87(2)(b) to the 79th Precinct stationhouse. § 87(2)(b) stated that PO Medina and PO Tesoriero were saying to each other, “She thinks we’re from the 7-9. What do you want to do? Should we tell her? Let’s just take them to the 7-9 and leave them there.” Inside the RMP on the way to the stationhouse, § 87(2)(b) stated that PO Medina and PO Tesoriero told her they did not know what the incident was about and were just following orders. At the 79th Precinct stationhouse, § 87(2)(b) said that when Sgt. Nieri told PO Medina and PO Tesoriero that he had no idea who § 87(2)(b) and § 87(2)(b) were and had no paperwork for them, PO Medina and PO Tesoriero replied that Captain Esposito told them to take them there and, “We don’t know what it’s about. We don’t know what to tell you. We need our cuffs back.”

§ 87(2)(b) said that she and § 87(2)(b) were put into holding cells, but the officers never fingerprinted or photographed her. After an unknown period of time, while in the cell § 87(2)(b) heard officers saying amongst themselves that they thought it was a trespass incident. One officer said that they wanted to charge § 87(2)(b) and § 87(2)(b) with trespassing, but § 87(2)(b) did not want to press charges. The officer also mentioned that § 87(2)(b) said he did not want the two of them to go back to the roof. § 87(2)(b) asked the officers loudly who said that, but the officers did not answer her. § 87(2)(b) told the officers that § 87(2)(b) gave her permission to be on the roof. The cell attendant, PO Bay, would not answer questions or find out what was going on. After three or four hours a Sgt. Emile Pratt explained to § 87(2)(b) and § 87(2)(b) that to his understanding, it was a trespass incident. § 87(2)(b) told the Hispanic sergeant that it could not be trespassing, because she met the man who owns the space.

§ 87(2)(b) said that at approximately 7:00 p.m., she was screaming that she was in the cell for hours and had to get home and no one asked her any questions. Shortly after, Det. Hoell came to the cells and said he did not know what the incident was about, but would find out.

Det. Hoell also asked how she knew § 87(2)(b) and whether she had a number for him. § 87(2)(b) said she only had his wife's number and that was how she got in touch with him. When PO Bramble finally released § 87(2)(b) at 8:30 p.m., he had her sign a form saying she was released, but said she did not need a copy. § 87(2)(b) was sure about the time, because she requested an Uber ride from the stationhouse to her parked car after being released. PO Bramble told her to not go back to the roof, but § 87(2)(b) called her after the incident and said she had to deal with the birds. § 87(2)(b)'s earlier phone statement was generally consistent with her CCRB interview, however she added that while at the stationhouse, more than one officer asked her where § 87(2)(b) was or whether she had a number for him (06 and 10 Board Review).

§ 87(2)(b), § 87(2)(g)

In a phone statement, § 87(2)(b) said that he told Captain Esposito that § 87(2)(b) and § 87(2)(b) had permission to be on the roof. § 87(2)(b) could not remember exactly when he told this to Captain Esposito, but believed it was either on the date of the incident or a couple of days before (07 and 08 Board Review).

Captain Esposito stated she ordered that § 87(2)(b) and § 87(2)(b) be transported to the 79th Precinct stationhouse because they had to be debriefed by the detective assigned to § 87(2)(b) case as to their knowledge of § 87(2)(b) and also to verify their identities. Captain Esposito did not remember the name of the detective assigned to § 87(2)(b) case. In addition to § 87(2)(b) and § 87(2)(b) being on the roof, Captain Esposito believed they were connected to § 87(2)(b) because § 87(2)(b) said on the roof that § 87(2)(b) told her that he was going to be away and asked her to feed the pigeons. Captain Esposito did not know how long this debriefing would take and said it had to be conducted in a controlled environment for the safety of the detectives and the subjects. Captain Esposito was not sure whether or not any officers told § 87(2)(b) and § 87(2)(b) that they were under arrest, but did know that officers told them that they were being taken to the stationhouse to speak to detectives. When asked whether § 87(2)(b) and § 87(2)(b) consented to be removed to the stationhouse for debriefing, Captain Esposito responded that they were under investigation at that point so it had nothing to do with consent. Captain Esposito added that the officers had to ensure that § 87(2)(b) and § 87(2)(b) had permission to be on the roof, because they might have been trespassing. Captain Esposito explained that § 87(2)(b) gave § 87(2)(b) permission to be on the roof, but not necessarily § 87(2)(b) and § 87(2)(b). After § 87(2)(b) and § 87(2)(b) were removed, Captain Esposito told § 87(2)(b) that § 87(2)(b) was not on the roof. § 87(2)(b) responded that he did not know that § 87(2)(b) and § 87(2)(b) were feeding the pigeons. § 87(2)(b) never said he wanted to press charges against § 87(2)(b) or § 87(2)(b) for trespassing.

Captain Esposito was specifically asked during her CCRB interview whether § 87(2)(b) or § 87(2)(b) were under arrest at the point that they were transported to the stationhouse. Captain Esposito first responded that they were under investigation. Captain Esposito added that § 87(2)(b) had a warrant, but this was not confirmed until later at the stationhouse. Captain Esposito's representative then briefly whispered to Captain Esposito, at which point, Captain Esposito said § 87(2)(b) and § 87(2)(b) were under arrest for possible trespassing and that the arrests could have been voided if nothing came of them. The officers never pursued trespassing charges because once they investigated § 87(2)(b) and § 87(2)(b)'s involvement with § 87(2)(b) they were finished with them. Captain Esposito did not speak to

§ 87(2)(b) or § 87(2)(b) after they were removed to the stationhouse. No detectives or officers later spoke to Captain Esposito about any information learned during the debriefing, but the 79th Precinct executive officer informed Captain Esposito that § 87(2)(b) was arrested when it was discovered that he had an active warrant. No officers called Captain Esposito while § 87(2)(b) and § 87(2)(b) were still in custody to ask what to do with them. During her CCRB interview, Captain Esposito was told that § 87(2)(b)'s name was only run for warrants at 6:57 p.m. and she was asked if she had any idea why § 87(2)(b) was held so long prior to her name being run. She repeated that she had no dealings with § 87(2)(b) or § 87(2)(b) or the investigation once they were removed from the scene (09 Board Review).

PO Medina generally corroborated Captain Esposito's statement, but added that he did not know whether or not § 87(2)(b) and § 87(2)(b) were under arrest and Captain Esposito did not tell them that they were. Captain Esposito did tell them to put § 87(2)(b) and § 87(2)(b) in handcuffs and transport them to the 79th Precinct detective squad, which they did. At the 79th Precinct stationhouse they escorted them to the 79th Precinct detective squad room. The detectives told PO Medina and PO Tesoriero to bring § 87(2)(b) and § 87(2)(b) downstairs to the desk. They followed these instructions and informed Sgt. Nieri that they were told to bring § 87(2)(b) and § 87(2)(b) to the stationhouse by Captain Esposito. PO Medina did not handle any arrest paperwork or have anything further to do with § 87(2)(b) or § 87(2)(b) (12 Board Review).

PO Tesoriero generally corroborated PO Medina's statement, but said that Captain Esposito told him and the other officers before they entered the roof that § 87(2)(b) and § 87(2)(b) were to be arrested without specifying a charge. PO Tesoriero also said he and PO Medina brought § 87(2)(b) and § 87(2)(b) immediately to the front desk and only told Sgt. Nieri that they were "the individuals from the 10-85." PO Tesoriero and PO Medina did not tell Sgt. Nieri whether § 87(2)(b) or § 87(2)(b) were under arrest or to be debriefed. PO Tesoriero had no later conversations with any supervisors about § 87(2)(b) and § 87(2)(b) and did not prepare any arrest paperwork (14 Board Review).

PO Hernandez generally corroborated PO Medina and PO Tesoriero's statements, but added that Captain Esposito told PO Medina and PO Tesoriero on the roof, "Bring them downstairs and bring them to the squad. The squad might want to talk to them." PO Hernandez left the scene with Sgt. Morocho and had no further interactions with § 87(2)(b) or § 87(2)(b) but later observed them escorted into the 79th Precinct stationhouse (13 Board Review).

Sgt. Morocho never observed § 87(2)(b) and § 87(2)(b) after they were taken off of the roof, but heard Captain Esposito say that she was going to have § 87(2)(b) and § 87(2)(b) taken to the 79th Precinct stationhouse for an unspecified reason (16 Board Review).

Sgt. Nieri had no recollection of this incident or § 87(2)(b) and § 87(2)(b) but said that the date of the incident was his second day as a sergeant and he was "just trying to get through the day." Sgt. Nieri confirmed that he was working as desk sergeant on the date of the incident and that he would have been responsible for determining the validity of any arrests for any prisoners in the holding cell. Sgt. Nieri did not make any decisions about whether or not to detain a prisoner on the date of the incident. Sgt. Nieri confirmed that he prepared the command log entries for § 87(2)(b) and § 87(2)(b) (23 Board Review).

PO Bay said that he was working as cell attendant during this incident and remembered § 87(2)(b) and § 87(2)(b) complaining that they should not be in the stationhouse. PO

Bay was not sure if he was given any instructions about holding § 87(2)(b) or § 87(2)(b) but thought he and the other officers were waiting for their executive officer or commanding officer to find out why § 87(2)(b) and § 87(2)(b) were being held and give them instructions (24 Board Review).

PO Bramble said that when he and PO Buchanan got back to the stationhouse at approximately 5:03 p.m., they were told by an unknown sergeant that § 87(2)(b) and § 87(2)(b) were still in the cells and they should “figure it out.” At approximately 5:50 p.m., PO Bramble and PO Buchanan returned to the shop and spoke to § 87(2)(b) told PO Bramble that § 87(2)(b) and § 87(2)(b) did not have permission to be on his roof and he wanted them arrested. However, when PO Bramble informed him that he would have to press charges, § 87(2)(b) changed his mind and said he did not want to. PO Bramble and PO Buchanan then returned to the 79th Precinct stationhouse where he prepared a voided arrest report for § 87(2)(b) while PO Buchanan handled § 87(2)(b)'s arrest paperwork for his active warrant. No officers began arrest paperwork for § 87(2)(b) prior to this point. After preparing her voided arrest report, PO Bramble released § 87(2)(b) at 7:44 p.m. according to his memo book entries. PO Bramble did not speak to any detectives about the case and did not know whether § 87(2)(b) and § 87(2)(b) were debriefed earlier (17 Board Review).

Det. Hoell had no recollection of this incident, but said that the detective squad's debriefing log showed him debriefing § 87(2)(b) at 7:49 p.m. and § 87(2)(b) at 7:52 p.m. PO Bramble and PO Buchanan are listed as the arresting officers in the log. Det. Hoell said that the procedure was for arresting or transporting officers to lodge prisoners in the cells and then come up to the detective squad room and speak to detectives about the prisoner to be debriefed. Whatever detective happens to be available will conduct the debriefing and DD5s are only prepared if information is gained that would lead to or advance an investigation (25 Board Review).

The 79th Precinct detective squad debriefing log for February 28, 2017, confirmed that § 87(2)(b) was debriefed at 7:49 p.m. and § 87(2)(b) was debriefed at 7:52 p.m. (26 Board Review).

The 79th Precinct Command log for February 28, 2017, notes § 87(2)(b) logged in at 2:50 p.m. The log notes that § 87(2)(b) was arrested and charged with criminal trespass, (arrest# § 87(2)(b) which was subsequently voided and she was released at 7:52 p.m. The arresting officer is listed as PO Bramble and the verifying officer is Captain Lashonda Dyce. The command log notes § 87(2)(b) logged in at 2:50 p.m. His charge is listed as “ROW” (or returned on warrant) and his arresting officer is listed as PO Bramble. Additionally, Sgt. Nieri leaves the desk at 3:07 p.m. and is replaced by Sgt. Pratt, who inspects the cells at 3:12 p.m. (27 Board Review).

An ITSD search confirmed that on February 28, 2017, § 87(2)(b)'s name was run for warrants by PO Bay at 3:56 p.m., PO Buchanan at 6:56 p.m., and PO Nicholas Sierra at 8:39 p.m. The same search confirmed that § 87(2)(b)'s name was run for warrants by PO Bramble at 6:57 p.m. (28 Board Review).

§ 87(2)(b), § 87(2)(a) 160.50

§ 87(2)(b), § 87(2)(g) [Redacted]
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[Redacted]
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[Redacted]

Squad: 3

Investigator: _____
Signature Print Date

Squad Leader: _____
Title/Signature Print Date

Reviewer: _____
Title/Signature Print Date